

CUCCIO AND CUCCIO, P.C.
Emil S. Cuccio (4940)
45 Essex Street, Suite 106
Hackensack, NJ 07601
201-487-7411
escuccio@aol.com
Attorneys for Defendants,
Priti Patel and Jignesh Patel

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

IN RE:	:	Case No. 17-24676
	:	Chapter 7
BIJEN A. PATEL, Debtor	:	Hon. Kathryn C. Ferguson
	:	Adv. Pro. No. 17-1746 (KCF)

JOHN M. MCDONNELL, AS CHAPTER 7	:	
TRUSTEE,	:	
	:	ANSWER AND AFFIRMATIVE
Plaintiff,	:	DEFENSES TO ADVERSARY
	:	COMPLAINT FOR RECOVERY OF
v.	:	PROPERTY OF THE ESTATE
	:	
PRITI PATEL and JIGNESH PATEL,	:	
	:	
Defendants.	:	

Defendants, Priti Patel and Jignesh Patel, by and through their undersigned counsel, Cuccio and Cuccio, P.C., by way of Answer to the Complaint against defendants, Priti Patel ("Defendant Priti") and Jignesh Patel ("Defendant Jignesh"), and together collectively the "Defendants." hereby state as follows:

JURISDICTION AND VENUE

1. Defendants admit the allegations set forth in paragraph 1 of the Complaint.

2. Defendants admit the allegations set forth in paragraph 2 of the Complaint.

3. Defendants admit the allegations set forth in paragraph 3 of the Complaint.

PARTIES

4. Defendants admit the allegations set forth in paragraph 4 of the Complaint.

5. Defendants admit the allegations set forth in paragraph 5 of the Complaint.

BACKGROUND

6. Defendants admit the allegations set forth in paragraph 6 of the Complaint.

7. Defendants admit the allegations set forth in paragraph 7 of the Complaint.

8. Defendants admit the allegations set forth in paragraph 8 of the Complaint.

9. Defendants admit the allegations set forth in paragraph 9 of the Complaint.

10. Defendants admit the allegations set forth in paragraph 10 of the Complaint.

11. Defendants admit so much of the allegations set forth in

paragraph 11 of the Complaint as they relate to the Debtor's transfer of a 30% interest in Nine Hoboken, LLC and that Defendant Priti is not listed as a creditor on the Debtor's Schedules.

12. Paragraph 12 of the Complaint contains no statement or allegation other than reference to an Exhibit for which no response is required.

13. Defendants have insufficient information with which to admit or deny the allegations set forth in paragraph 13 of the Complaint and, therefore, leave Plaintiff to his proofs.

14. Defendants have insufficient information with which to admit or deny the allegations set forth in paragraph 14 of the Complaint and, therefore, leave Plaintiff to his proofs.

15. Defendants have insufficient information with which to admit or deny the allegations set forth in paragraph 15 of the Complaint and, therefore, leave Plaintiff to his proofs.

16. Defendants have insufficient information with which to admit or deny the allegations set forth in paragraph 16 of the Complaint and, therefore, leave Plaintiff to his proofs.

17. Defendants have insufficient information with which to admit or deny the allegations set forth in paragraph 17 of the Complaint and, therefore, leave Plaintiff to his proofs.

18. Defendants have insufficient information with which to admit or deny the allegations set forth in paragraph 18 of the Complaint and, therefore, leave Plaintiff to his proofs.

19. Defendants have insufficient information with which to admit or deny the allegations set forth in paragraph 19 of the Complaint and, therefore, leave Plaintiff to his proofs.

COUNT ONE

(11 U.S.C. SEC. 502)

20. Defendants repeat each and every answer previously set forth herein in response to the Complaint and incorporate the same herein as if set forth at length.

21. Defendants admit so much of the allegations set forth in paragraph 21 of the Complaint as they relate to the turnover of the transfers, but deny any liability therefor.

22. Defendants have insufficient information with which to admit or deny the allegations set forth in paragraph 22 of the Complaint and, therefore, leave Plaintiff to his proofs.

COUNT TWO

(11 U.S.C. SEC. 541)

23. Defendants repeat each and every answer previously set forth herein in response to the Complaint and incorporate the same herein as if set forth at length.

24. Paragraph 24 of the Complaint sets forth legal conclusions to which no response is required. To the extent a response is required, Defendants have insufficient information with which to admit or deny the allegations in paragraph 24 of the Complaint and, therefore, leave Plaintiff to his proofs.

COUNT THREE

(11 U.S.C. SEC. 542)

25. Defendants repeat each and every answer previously set forth herein in response to the Complaint and incorporate the same herein as if set forth at length.

26. Defendants deny the allegations set forth in paragraph 26 of the Complaint.

27.

27. Defendants deny the allegations set forth in paragraph 27 of the Complaint.

COUNT FOUR

(11 U.S.C. SEC. 544)

28. Defendants repeat each and every answer previously set forth herein in response to the Complaint and incorporate the same herein as if set forth at length.

29. Defendants deny the allegations set forth in paragraph 29 of the Complaint.

30. Defendants deny the allegations set forth in paragraph 30 of the Complaint.

31. Defendants have insufficient information with which to admit or deny the allegations set forth in paragraph 31 of the Complaint and, therefore, leave Plaintiff to his proofs.

32. Defendants have insufficient information with which to admit or deny the allegations set forth in paragraph 32 of the

Complaint and, therefore, leave Plaintiff to his proofs.

33. Paragraph 33 of the Complaint sets forth legal conclusions to which no response is necessary. To the extent a response is required, Defendants have insufficient information with which to admit or deny the allegations set forth in paragraph 33 of the Complaint and, therefore, leave Plaintiff to his proofs.

34. Paragraph 34 of the Complaint sets forth legal conclusions to which no response is necessary. To the extent a response is required, Defendants have insufficient information with which to admit or deny the allegations set forth in paragraph 34 of the Complaint and, therefore, leave Plaintiff to his proofs.

COUNT FIVE

11 U.S.C. SEC. 548)

35. Defendants repeat each and every answer previously set forth herein in response to the Complaint and incorporate the same herein as if set forth at length.

36. Defendants deny that the transfer to Defendant Priti is avoidable.

37. Defendants deny that the Debtor received less than reasonably equivalent value in exchange for the transfer to Defendant Priti, and has insufficient information with which to admit or deny the remaining allegations set forth in paragraph 37 of the Complaint and, therefore, leaves Plaintiff to his proofs.

38. Defendants deny the allegations set forth in paragraph 38

of the Complaint.

39. Defendants deny the allegations set forth in paragraph 39 of the Complaint.

COUNT SIX

(11 U.S.C. SEC. 550)

40. Defendants repeat each and every answer previously set forth herein in response to the Complaint and incorporate the same herein as if set forth at length.

41. Defendants admit the allegations set forth in paragraph 41 of the Complaint.

42. Defendants deny the allegations set forth in paragraph 42 of the Complaint.

43. Paragraph 43 of the Complaint sets forth legal conclusions to which no response is necessary. To the extent that a response is required, Defendants have insufficient information with which to admit or deny the allegations set forth in paragraph 43 of the Complaint and, therefore, leave plaintiff to his proofs.

COUNT SEVEN

(UNJUST ENRICHMENT)

44. Defendants repeat each and every answer previously set forth herein in response to the Complaint and incorporate the same herein as if set forth at length.

45. Defendants deny the allegations set forth in paragraph 45 of the Complaint.

46. Defendants deny the allegations set forth in paragraph 46 of the Complaint.

47. Defendants deny the allegations set forth in paragraph 47 of the Complaint.

48. Defendants deny the allegations set forth in paragraph 48 of the Complaint.

49. Defendants deny the allegations set forth in paragraph 49 of the Complaint.

50. Defendants deny the allegations set forth in paragraph 50 of the Complaint.

COUNT EIGHT

(FED. R. BANKR. P. 7008(b))

51. Defendants repeat each and every answer previously set forth herein in response to the Complaint and incorporate the same herein as if set forth at length.

52. Defendants have insufficient information with which to admit or deny the allegations set forth in paragraph 52 of the Complaint and, therefore, leave plaintiff to his proofs.

53. Defendants have insufficient information with which to admit or deny the allegations set forth in paragraph 53 of the Complaint and, therefore, leave plaintiff to his proofs.

COUNT NINE

(RESERVATION OF RIGHTS)

54. (Misnumbered as paragraph 14). Defendants repeat each

and every answer previously set forth herein in response to the Complaint and incorporate the same herein as if set forth at length.

55. (Misnumbered as paragraph 15). Paragraph 55 of the Complaint sets forth legal conclusions to which no response is required.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

(FAILURE TO STATE A CAUSE OF ACTION)

As a separate defense to the Complaint, and to each purported cause of action, Defendants submit that the Complaint fails to state a cause of action against the Defendants pursuant to the Federal Rules of Civil Procedure.

SECOND AFFIRMATIVE DEFENSE

(BUSINESS JUDGMENT RULE)

As a separate defense to the Complaint and to each purported cause of action, Defendants are not liable in the capacity in which they have been sued in that at all times they exercised their best business judgment and are not liable for their acts or omissions under the Business Judgment Rule.

THIRD AFFIRMATIVE DEFENSE

(REASONABLY EQUIVALENT VALUE)

As a separate defense to the Complaint and to each purported cause of action, Defendants submit that the Plaintiff's claims are

barred in whole or in part because the Debtor received reasonably equivalent value in exchange for the alleged transfers in the Complaint.

FOURTH AFFIRMATIVE DEFENSE

(NO DAMAGE)

As a separate defense to the Complaint and to each purported cause of action, and without admitting that the Complaint states a claim, Defendants submit that the Plaintiff's claims are barred since neither the Plaintiff nor the Debtor sustained any loss or damage.

FIFTH AFFIRMATIVE DEFENSE

(EQUITABLE DEFENSES)

As separate and affirmative defenses to the Complaint and to each purported cause of action, Defendants submit that the Plaintiff's claims are barred under the doctrines of estoppel, waiver, setoff, laches and the applicable statutes of limitations.

SIXTH AFFIRMATIVE DEFENSE

(RESERVATION AND NON-WAIVER)

Defendants reserve the right to assert additional defenses based upon further investigation and discovery; and to supplement or amend this Answer based upon further discovery; and to respond to any amendments or supplements to the Plaintiff's Complaint.

PRAYERS FOR RELIEF

WHEREFORE, Defendants demand judgment as follows:

1. Dismissing the Plaintiff's Complaint with prejudice;
2. Awarding Defendants costs and expenses incurred in this action together with attorney fees as permitted by law, plus interest; and
3. For such further relief as the Court deems equitable and just.

CUCCIO AND CUCCIO, P.C.
Attorneys for Defendants, Priti
Patel and Jignesh Patel

February 8, 2018

By /s/ Emil S. Cuccio
Emil S. Cuccio